

## **ENVIRONMENTAL QUALITY COUNCIL**

October 4, 1996, Montana State Capitol

Original Minutes with Attachments

### **COUNCIL MEMBERS PRESENT**

Mr. Jerry Noble, Chair	Rep. Dick Knox
Rep. Vicki Cocchiarella, Vice-Chair	Mr. Glenn Marx
Sen. Vivian Brooke	Rep. Scott Orr
Sen. William Crismore	Ms. Jeanne-Marie Souvigney
Sen. Lorents Grosfield	Rep. Bill Tash

### **COUNCIL MEMBERS EXCUSED**

Sen. Steve Doherty	Mr. Jerry Sorensen
Sen. Ken Mesaros	Mr. Greg Tollefson
Rep. Bill Ryan	Sen. Jeff Weldon
Rep. Debbie Shea	

### **STAFF MEMBERS PRESENT**

Ms. Martha Colhoun  
Mr. Todd Everts  
Mr. Larry Mitchell  
Ms. Kathleen Williams

### **VISITORS' LIST**

Attachment 1

### **COUNCIL ACTION**

Voted to approve the minutes of the February 22 EQC meeting.

### **CALL TO ORDER AND ROLL CALL**

The chair called the meeting to order at 8:35 a.m. and asked the secretary to take note of the roll.

## **APPROVAL OF MINUTES**

The Council voted unanimously to approve the minutes of the February 22, 1996 meeting.

## **ADMINISTRATIVE MATTERS**

### **Memorial Service**

TODD EVERTS, Legislative Environmental Analyst, reported that the mid-day break today was scheduled to enable Council members to attend a memorial service for BOB THOMPSON, who served as a staff member of the Council from 1985 to 1991 and more recently as a water quality attorney for the Department of Environmental Quality. The service will be packed with several hundred people from local and state communities. MR. THOMPSON, who is survived by his wife and three young boys, was a good friend of the EQC family and will be sorely missed.

### **Pay Plan Passed**

The Legislative Council passed the Legislative Branch pay plan. The plan will be partially funded for this fiscal year starting November 1, and then the legislature will decide whether or not it will be funded during the legislative session. The Legislative Council is meeting all day tomorrow, and MR. EVERTS will be attending. One of the matters they are considering is the budget of the Legislative Council, which includes the EQC budget. MR. EVERTS was happy to note that the operating budgets for 1998-1999 fiscal years will be almost \$6,000 less than the 1996-1997 biennial budget.

## **COMPLIANCE AND ENFORCEMENT SUBCOMMITTEE REPORT**

Because most of those in attendance at today's meeting were present at yesterday's Compliance and Enforcement Subcommittee meeting, only highlights were offered today. REP. KNOX

distributed copies of the environmental/natural resource Compliance and Enforcement Study. (EXHIBIT 1) The project was completed as assigned, and resulted in the condensation of massive amounts of data from 27 state programs over a 20 month time period. He pointed out that one strength of the study was the consistent application from the first meeting of the five standards of timeliness, equity, consistency, effectiveness, and efficiency. He indicated that reading the report with these headings in mind would greatly increase the reader's understanding of how the programs were evaluated. He then distributed the "yellow sheet," showing the evaluation criteria. (EXHIBIT 1A) He noted that the use of terms such as "fair" or "good" in the study directly refer to the ratings on the yellow sheet.

MR. NOBLE asked how the group arrived at the ratings. REP. KNOX said the ratings were arrived at by applying the standardized evaluation form to each individual program. The subcommittee decided not to single out individual programs in the report (with two exceptions), but rather to report on the five criteria across all programs. The programs submitted their reports which were exhaustively discussed in subcommittee meetings--and "findings," rather than "conclusions," were made. Sometimes wording was collectively changed, sometimes items were dropped and then recommendations were made. Another strength of this study is that there is a consistent, logical flow from the evaluation process, to the findings, and eventually to the relevant recommendations.

REP. KNOX pointed out the two programs that were recognized as models--the coal program and the forestry best management program. This was considered instructive because the two

programs were very different, e.g., in composition, and financing. He also noted that while there were fundamental differences of opinion during the study process, there was no hostility in the committee, and he was proud they were able to work together harmoniously. When REP. KNOX asked REP. COCCHIARELLA, co-chair of the subcommittee, to expand on his report, she said she was satisfied with his thorough description. When REP. KNOX asked MR. EVERTS about the public review period for this document, MR. EVERTS replied that the dates are October 7th through November 7th, which will give both Council members and the public time to respond. REP. KNOX said he expected response and suggestions for changes to this draft document at the November 14th subcommittee meeting.

REP. TASH asked what process was used to select the two programs which were singled out, i.e., “Coal Mining,” and “Forestry BMPs.” REP. KNOX replied that his subcommittee assumed some programs would turn out to be better than others. When certain programs were found to be clearly “on top of the game,” and then were so different from each other, the subcommittee determined that it would be useful to include them as positive examples. SEN. BROOKE asked if the “Coal Mining” program had a more specific name. MR. EVERTS noted that at the time of the study the pilot program was known as “The Coal and Uranium Program,” but that the name after reorganization is yet to be determined, depending on what bureau it will be under. SEN. BROOKE asked if the coal mining program had something to do with permits or compliance. REP. KNOX replied that the program included both permitting and compliance.

MR. NOBLE commended the subcommittee, the chairman, and the vice-chairman on their excellent work. It was an outstanding job on a difficult project. MR. NOBLE asked if there were any estimates of how many hours were involved. REP. KNOX indicated an enormous amount of time had been spent on the project, and the staff was to be commended for their huge time commitment, and for aiding the subcommittee every step of the way, thereby enabling the subcommittee to complete the project on time. REP. COCCHIARELLA added that had the agencies they surveyed not been cooperative and responded in a timely way, the project would not have been completed on time.

#### **AGENDA CHANGES**

MR. NOBLE noted that with the shortened report from the Compliance and Enforcement Subcommittee, and the absence of two Council members who were to give another report, he would alter the agenda to accommodate those who needed to leave early.

#### **MONTANA ENVIRONMENTAL INDICATORS SUBCOMMITTEE REPORT**

Since co-chairs MR. TOLLEFSON and MR. SORENSEN were absent, MS. SOUVIGNEY was asked to present the report. She said they had decided REP. TASH would make the presentation. REP. TASH acknowledged the staff for their superior support and aid in producing the report. (EXHIBIT 2) He pointed out that at the eleventh hour the title page had been changed. The subcommittee's intent throughout their collaboration was to produce a document that would actually be read and used. In the several meetings during the development process, comments were invited (and well-taken) point by point, and at yesterday's subcommittee meeting, REP.

KNOX and SEN. GROSFIELD offered “tune up” suggestions to improve word smithing and narrative explanations. When REP. TASH asked, MR. EVERTS verified that the Indicators Report goes to the printer next Friday. REP. TASH noted that the final changes to be made have to do with making the report more interesting, both graphically and narratively, so readers are encouraged to actually read it. He felt the desired tone of neutrality had been achieved. His subcommittee didn’t want to incite debate. They wanted to make sure the data in the report could be substantiated. If conclusions were extrapolated from data, then references were included.

MS. SOUVIGNEY added that the subcommittee decided not to make recommendations in the report, but to acknowledge where there was lack of data, or, for example, inconsistent data such as with air quality. She said that a form for public comment will be added to the report, and more references will be listed. She noted that major changes had been suggested in some areas, for example, a recommendation in the economic segment to not just mention numbers of jobs but also dollars per sector. Another suggestion was to change the title of the “Forest” segment to “Timber Production” or to include a paragraph of explanation. She mentioned that DON ALLEN, of Don Allen and Associates, attended meetings and commented. MS. SOUVIGNEY pointed out that the draft copies distributed today did not show the color of the final product which will not only be more attractive, but make graphs much easier to read. At that point, SEN. BROOKE held up a color sample for all to see. MR. NOBLE asked how many copies were going to be printed. MR. MITCHELL answered that 2,000 copies would be printed. MR. NOBLE asked how the report would be distributed. MR. EVERTS replied that the

subcommittee has been busy with production, and that the issue of distribution hasn't been decided yet. MR. NOBLE pointed out a humorous typographical error ("wopulation"), and MR. TASH agreed that the draft still needs editing before the final product is ready. When SEN. BROOKE asked about spelling out EQC, she was told that would be handled in the Foreword which was missing from her copy. MR. TASH explained that MR. NOBLE and REP. COCCHIARELLA would sign the letter, i.e., the Foreword.

REP. KNOX questioned the accuracy of figures in the last paragraph of the report, concerning nonresident hunting/fishing licenses, and indicated the amount generated must be higher. SEN. CRISMORE agreed and said the figure must be closer to \$21 million. MS. WILLIAMS explained that the numbers had been taken from the Institute for Tourism and Recreation Research, University of Montana, and that she would check the numbers.

SEN. BROOKE commented that she was at a meeting yesterday where welfare reform was discussed. At that meeting, she suggested that a similar indicators-type report could be produced regarding the family environment. MS. SOUVIGNEY thanked the staff for putting many hours, including weekend hours, into the timely production of this report.

REP. ORR noticed a discrepancy in figures on pages 18 and 19 and suggested that the figures be made consistent to match page 19. MR. MITCHELL replied that that correction had already been made. REP. TASH urged others to make suggestions for changes or corrections since the

subcommittee wants to be accurate and avoid challenges. MR. NOBLE said this colorful document would be well read.

### **RESOURCE INDEMNITY TRUST (RIT) FUND LEGISLATIVE HISTORY RESEARCH**

MR. MITCHELL noted that the handouts he was distributing were greatly condensed from the thick reference bible, put together by MS. THEISEN that contained the complete RIGWA (Resource Indemnity and Ground Water Assessment Account) history. MR. MITCHELL noted that he would not be able to cover the entire history of the RIT in the 15 minutes allotted. The first handout (EXHIBIT 3) hits the highlights. The second handout (EXHIBIT 3A), prepared by MS. THEISEN, shows the history of the act since 1973. The history of the act is an issue right now because the RIT fund expenditures are predicted to exceed RIT revenues. The Legislative Finance Committee is determining what should be done to find out the different uses for the fund. There is much discussion and argument now about what the fund was originally intended for, and what the appropriate uses of that fund are.

MR. MITCHELL discovered in his research that this kind of inquiry had been conducted approximately every four years, and that there were already several memos from Department of Natural Resources and Conservation attorneys regarding the intent of the act and directions for how the fund should be used. The bottom line is that the funds can be used for anything the legislature decides. The only caveat is that the use should be for the improvement of the “total environment,” which includes social, economic, and other aspects, as well.



Last July MR. MITCHELL presented this information to the RIT subcommittee studying these issues. Present at that meeting was former REP. LARRY FASBENDER who sponsored the original 1973 bill, HB 97, and was one of the sponsors of the 1974 bill, HB 576. The first one set up the fund statutorily, and the second one put the language in the constitution. The next handouts showed a copy of the act (EXHIBIT 3B), and the constitutional language (EXHIBIT 3C). MR. MITCHELL asked REP. FASBENDER about the original intent but found that the minutes of the meeting are not available and very little legislative history can be found. Then-LT. GOV. TED SCHWINDEN, when he saw these needs in the state, both for the environment and for citizens in general, put forth the idea that when natural resources were taken from the state, the landscape should be reclaimed. There was not the intent at that time to use the money for anything specific, for example, cleanup of oil, gas, or hard-rock mining. Yet this issue has been argued ever since. MR. MITCHELL referred to Section 2, the reclamation section of Article IX, which constitutionally set up the RIT, and pointed out that subsections 2 and 3 (in boldface type) were the result of a 1974 amendment passed by the voters. In 1979, interest was added to the fund. Until 1985, more and more appropriations were made to the fund. In 1985, the legislature added language to the act that said the funds were “not to be made to fund general operating expenses of state agencies.”

In 1988, the County of Silver Bow sued the state (EXHIBIT 3D) arguing these funds were, in fact, being used to fund the general government rather than for reclamation of land from resource damages. The case was appealed to the Supreme Court. The argument at the time was that because of subsections 2 and 3, it was clear that the legislature and the voters intended for that

money to be used for reclamation. The Supreme Court disagreed saying just because subsections 2 and 3 appear where they do, does not imply that they are tied to subsection 1 which says “All lands disturbed by the taking of natural resources shall be reclaimed.” The Supreme Court separated that connection, saying subsections 2 and 3 do not necessarily support subsection 1 and only subsection 1. That ruling set the tone for what the RIT can be used for ever since that 1988-89 decision. It was a 5 to 2 vote, with two dissenting justices saying the fund was clearly intended to be a reclamation fund. Since 1979, the legislature has used the RIT for a variety of things. In that time, the legislature has made many changes, including changing the policy statement, adding minerals, changing taxable rates, changing accounts set up under the RIT, changing appropriations (both proceeds and interest) coming into the account, and changing appropriations for different programs. Because of these extensive changes, the legislature has been asked again to review the Act and to determine, once again, how the funds should be used. As far as we can tell, the Act can be used statutorily to say whatever the legislature wants it to say--provided it keeps the constitutional requirement that the fund’s principal remains at \$100 million forever. That is the only constitutional limitation of section 2 that the Supreme Court said the legislation is subject to.

MR. NOBLE asked whether the tax continues after the fund reaches \$100 million, and how the taxes are used. MR. MITCHELL replied that the answer is in the statute, not in the Constitution. The statute says that after \$100 million, the tax proceeds and interest are supposed to be spent, so it is not stated or implied that the tax would go off. MR. NOBLE said he perceived the issue as “iffy.” MR. MITCHELL said the decision is totally up to the legislature. The statute says the

\$100 million is a floor, not a ceiling. MR. MARX, referring to page 16 of EXHIBIT 3A, noted that there apparently are those who think the tax should be abolished when the fund reaches \$100 million. Therefore, he expects the bill to come in again. MR. MITCHELL pointed out that MS. THEISEN's report also included "Failed RIT Bills" which gives an idea of what the legislature has looked at and rejected.

### **RIT SUBCOMMITTEE REPORT AND RECOMMENDATIONS**

MR. EVERTS announced that since SEN. GROSFIELD and REP. RYAN, the two Council members appointed to the subcommittee, were not here today, TAREN PURDY, Senior Fiscal Analyst, Legislative Fiscal Division, had graciously agreed to give an impromptu report based on the handout she generated. (EXHIBIT 4) She said the Legislative Finance Committee (LFC) appointed the RIT subcommittee to review expenditures to see how to simplify the way funds are distributed. She noted that SEN. GROSFIELD and REP. RYAN participated in all subcommittee meetings. She said the first two recommendations are the most important, namely 1) to narrow uses of the RIT interest and proceeds to specific purposes, and 2) to amend statutes to include specific uses of RIT funds, and de-earmark the remaining revenues. The institution of these recommendations would require significant statutory change. The subcommittee also feels that some recommendation as to which programs would most likely meet the established criteria for funding from the RIT should be made. Therefore, the subcommittee requested the LFC to create a committee bill so the legislature would do an interim study. She mentioned DAVE BOHYER, Research Director, Legislative Services Division, was drafting the LFC Committee bill.

REP. KNOX asked if the subcommittee considered whether Recommendation #1 might be challenged based on the Supreme Court decision. MS. PURDY said the subcommittee discussed it briefly, and that GREG PETESCH, Legislative Services Division legal counsel, thought it would not be challenged.

SEN. BROOKE asked whether the EQC would have any further part to play in the process of bill drafting. MS. PURDY noted that the subcommittee would include whatever the Council wanted. MR. EVERTS added that it was up to the Council to decide what kind of input they wanted to have. SEN. BROOKE asked whether there had been any discussion about how the EQC would be involved. MR. NOBLE said he didn't know of any. MR. EVERTS mentioned that today's Council meeting had been intended to be an opportunity for SEN. GROSFIELD and REP. RYAN to discuss that very issue. The issue definitely needs to be discussed. MS. PURDY said that the LFC did not specify who would perform this study. SEN. BROOKE said she would like to see the EQC involved in these deliberations.

MS. SOUVIGNEY said she had two questions: First, given that the recommendation from the subcommittee was to do another study, how did that address the recognition that there is already an over expenditure of RIT funds? What can happen in the next legislative session? MS. PURDY said it would be up to the legislature; the Governor would make a recommendation. MS. SOUVIGNEY's second question was: Why is a second study needed? Exactly what would it cover? MS. PURDY said she believed that the thought of the LFC was that between now and the next legislative session, the degree of work that would be needed to study the programs that

are currently funded by RIT would be a fairly major undertaking to come to recommendations about which programs should continue to receive RIT funds and why.

MR. MARX asked what the shortfall is. MS. PURDY replied that the shortfall in one account is about \$500,000 and the other two accounts are under pressure. MR. MARX asked if the program is currently \$18 million. MS. PURDY replied, "Yes." MR. MARX said that \$500,000 of \$18 million is fairly minimal? MS. PURDY said the basic question is how the legislature will determine overall policy for the accounts, because the on-going revenues are not meeting the fiscal needs of several of the accounts. MR. NOBLE said he thought the best course for the Council at this time is to place the issue of EQC involvement in this study plan on the November agenda when SEN. GROSFIELD and REP. RYAN can make their recommendations. SEN. BROOKE added that MR. BOHYER should also be asked about the committee bill for the Council's review and information during the November EQC meeting. MR. NOBLE asked for public comment, and thanked MS. PURDY for filling in at the last minute.

#### **BILL DRAFTING SUBCOMMITTEE UPDATE**

REP. COCCHIARELLA distributed a handout (EXHIBIT 5) regarding the proposed bill drafting change, and noted that the subcommittee included SEN. GROSFIELD as well as herself. She said that to ensure an efficient bill drafting system and, at the same time, keep that document open to the public, the subcommittee suggested two categories of bill draft requests: staff drafts and legislator drafts. The staff drafts would continue as in previous legislative sessions. Legislator drafts will still require a bill draft request form, and be assigned an LC number, but

then the bill will be drafted outside the Legislative Services Division. It can be drafted by yourself, by a committee, by a group you work with, or by a lawyer but it must meet Legislative Council guidelines. For example, it must be in correct format, on computer disk, and must not conflict with other statutes. Once the legislator draft is brought in, however, it will take priority and go to the top of the list of the drafter who is assigned to it. Once the bill is approved as matching and consistent, then it can flow through the system. The legislator draft is actually a completed bill. If four people take legislative drafts to the same drafter, the LC number determines which bill has priority for them. If the draft is not in by the 20th legislative day, the drafting request will be canceled. Also, because too many bills are being held for no reason, the policy on holding bills was changed. If a bill draft is put on hold for more than 10 legislative days, it is canceled. The subcommittee hopes this system will work, create more efficiency, end roadblocks, and give the public more access to bills they desire to see.

MS. SOUVIGNEY asked if REP. COCCHIARELLA had any idea of what percentage of bill drafts would be legislator drafts. REP. COCCHIARELLA said some subcommittee members thought many, some thought a few, some had no sense of how many. The hope is that outside drafting will free up time for drafting of bills on the inside. MR. EVERTS said that estimates for the last legislative session were that 20% of EQC bill drafts regarding natural resource and environmental legislation were marked as confidential. Generally, 5% of the Legislative Services Division's bill drafts were confidential. Perhaps the percentages are similar for these upcoming drafts. MS. SOUVIGNEY said it was hard for her to know since we were talking about contracting out and getting them back and marking them confidential. She asked what the

rationale was for giving the legislator drafts priority status. REP. COCCHIARELLA replied that there would be no incentive to put in the time and energy, or pay an attorney, to draft bills outside if they just stayed in their same priority position even after they were already written, and just needed checking for format and language. She stated that the bill draft proposal was not intended to be either a disincentive or encouragement to draft bills outside.

SEN. BROOKE asked if the bill draft proposal would affect agencies or how the public can get access. REP. COCCHIARELLA said there should be no impact at all. MR. MARX added that anybody can get access to agency bills at any time in the process--even before the bill is a bill. MR. MARX joked that lawyers would now be on the street holding up signs saying, "Will write bills for food." MR. NOBLE asked if these were the same lawyers who could be seen running behind ambulances.

### **PONY MILL CLEANUP UPDATE**

MR. ARRIGO, Administrator, Enforcement Division of the Department of Environmental Quality (DEQ), gave a handout (EXHIBIT 6) to summarize the update. He said that phase I of the Pony Mill reclamation was completed. He covered the objectives, costs, and recommendations of the DEQ. He indicated that the \$10,000 in-hand from contributions was from private companies, primarily from industries associated with mining. The DEQ does not feel any need for ground water cleanup; it is hoped that the plastic liner can be folded over the tailings that remain in the impoundment, so the tailings will be secured from the environment, and won't be a source of long-term pollution.

He explained that the phase II reclamation can't be carried out until a decision is reached regarding bankruptcy proceedings because destroying the impoundment would affect the assets. To speed up this process, the DEQ has named the bankruptcy trustee a potential responsible party (PRP), to maintain a higher standing in the court's settlement. The goal of the DEQ is to permanently reclaim the site so it is not a long-term hazard. The depression where the impoundment is will remain, but there will not be many releases to the environment. Funds to pay for phase II have not been identified. In the meantime, yearly maintenance is required, consisting of monitoring ground water, checking the leak detection system in two liners, and pumping waste water so it doesn't accumulate between the two liners and leak out.

MR. NOBLE asked how much water is leaking annually between the liners. MR. ARRIGO replied that they don't have a good estimate for that, but they expect it to slow down. The first time they pumped water out it was approximately 20,000-30,000 gallons. Now they are taking the water out of the leak detection system and putting it back in the impoundment. The problem is that they don't know where the leaks are, but the amount of water has decreased in the monthly checks to the point that the next check will not be until next spring.

SEN. BROOKE asked about staff resources. MR. ARRIGO said one individual has spent at least a quarter of his time on the Pony Mill cleanup for the past year. SEN. BROOKE asked to see the figures. MR. ARRIGO said the DEQ was tracking those figures already to present to the bankruptcy court and would provide them to the EQC. SEN. BROOKE asked if the private individual wells that were contaminated were still being monitored as they were before the



project started. MR. ARRIGO said the wells were monitored frequently in the spring of 1995. Since then, no traces of cyanide or heavy metals have been detected. There was a problem with sampling at one point, since a private company used contaminated bottles to collect samples, and residual cyanide appeared. It turned out not to be in the well water, however. The contamination permitted for drinking water is .2ppm; at one point the reading was .17ppm. Since then, the reading has been at .006ppm or so.

SEN. BROOKE asked how they knew the levels were safe if the wells weren't being monitored. MR. ARRIGO replied that the wells are being monitored but not on a quarterly basis. At some time this winter, the domestic wells will be tested. Also, wells in the surrounding town of Pony are being monitored. SEN. BROOKE referred to the stated objective of the cleanup project to "minimize the amount of waste water that is leaking from the tailing impoundment." She questioned why the objective is not to stop the leaking entirely. MR. ARRIGO said the DEQ would like to stop it, but the expense involved is not reasonable for several reasons. First, they don't know where the leaks are, and to find out they would have to lift up the tailings and re-set the liners, and this option is not feasible. Second, to convert the tailings to a state where they won't cause leakage, the liquid would have to be removed from the tailings by adding ground-up rock. The tailings are extremely fine grained, and very difficult to de-water. When pumping the fluid out of the impoundments, they once found they were beginning to pump out the waste water, as well, so they had to stop. In the saturated tailings in the impoundment, there is water that can leak out but it is difficult to remove. They are hoping, when the liner is folded over to encapsulate the tailings, to use an additive like bentonite or fly-ash to try to absorb that liquid so

it doesn't continue to leak out. He said they would love to say they will stop it, but can't make any guarantees.

SEN. BROOKE suggested, since the DEQ is short on money, to go back to the Mining Association and say, "You told the Senate Natural Resources Committee that you were going to fund this cleanup, and \$10,000 is only a drop in the bucket." MR. ARRIGO said SEN. BROOKE was correct. He added that the DEQ paid someone from Golden Sunlight Mines to call members of the Mining Association and ask for donations. (See memo attached to these minutes for a subsequent correction to this information). Since the companies responded with only \$10,000, he feels it may be time to contact them again. REP. KNOX asked if the terms "impoundment" and "dam" referred to the same thing. MR. ARRIGO said yes. REP. KNOX asked if rainfall was a source of water in the tailings. MR. ARRIGO said yes, and that they had constructed diversion ditches early in the project. REP. KNOX asked if they had tried periodic pumping to dispose of the accumulating water. MR. ARRIGO said no, since pumping water out of the leak detection system and putting it back in is not worth it for such a small volume. REP. KNOX asked whether the final resolution of the 15 million gallons of waste water was to land apply the waste water. MR. ARRIGO said yes. REP. KNOX asked if the DEQ had any feel at all for how the assets were going to be distributed in the bankruptcy proceedings. MR. ARRIGO said no, and that the Department of Justice attorney assigned to represent the state in the proceedings, felt that after an inventory was conducted, the equipment was not worth much since the parts can't be sold. Apparently some residents believe Pony Mill is worth a lot as a gold mill. He said they hope to have more information by next summer.

MS. SOUVIGNEY asked how much Golden Sunlight Mines was paid to solicit donations. MR. ARRIGO said they paid an individual \$2,000 to make a lot of phone calls. MS. SOUVIGNEY verified this, saying “You paid \$2,000 and got \$10,000?” MR. ARRIGO said yes. MS. SOUVIGNEY asked where the money came from. MR. ARRIGO said it came out of the money used to fund the project, but he didn’t know exactly which account. When MR. NOBLE asked for questions or comments from the audience; one person asserted: “I’d like that job!” MR. ARRIGO asked SEN. BROOKE if she would like a separate report on the staff expenses she asked about earlier. SEN. BROOKE asked for a financial report that would show the full picture. MR. ARRIGO suggested that he amend his memo to include total figures of what the project is costing the state.

#### **SB 382 UPDATE (STATE SUPERFUND LIABILITY SCHEME STUDY)**

GERALD MUELLER, a contractor to the Montana Consensus Council (MCC), gave the report on SB 382. MR. MUELLER acts as project manager for the MCC, and in that role is the facilitator of the Major Facility Siting Act Collaborative. MR. MUELLER’s report consisted of a series of overheads. (EXHIBIT 7) In a discussion of orphan shares, REP. KNOX asked to whom the potentially liable party (PLP), could appeal. MR. MUELLER answered “the District Court.”

#### **MAJOR FACILITY SITING ACT COLLABORATIVE UPDATE**

MR. MUELLER then continued with another slide show for his second report. (EXHIBIT 8) MS. SOUVIGNEY asked about the 6-month expedited review, what the process is and who

would make the decision. MR. MUELLER answered that the details are not yet decided, but it will be a MEPA-type process, much like an environmental impact review. MS. SOUVIGNEY wondered if the procedure would be that the DEQ would discuss it and then refer it back to the Board, and MR. MUELLER said they didn't know yet.

MR. KNOX asked MR. MUELLER to define a "centerline review." MR. MUELLER answered that a corridor is defined, say 600' wide, and then poles are located relative to it, so the step of locating poles is now unnecessary. SEN. GROSFIELD asked for an example of when the state might need to say "no" to a proposal. MR. MUELLER explained that the answer he was giving was his own and not his group's: namely, that there might be proposals, the environmental impact of which was such, that the group would decide the project simply wasn't worth it. The group hasn't decided how they would say "no" or what criteria they would use.

### **WATER POLICY OVERSIGHT UPDATE**

MS. COLHOUN, distributed a memo (EXHIBIT 9), and briefly explained that three of the EQC's four water policy duties had been fulfilled. She stated that JIM STIMSON, Coordinator of the Water Information System at the Montana State Library, would give an update on the fourth duty (to report on the Water Resources Data Management System) at the November EQC meeting. She noted that one additional issue from the Compliance Committee will come up at the November meeting.

MR. EVERTS mentioned that the November EQC meeting would also include a report on the status of the renewable resources grant and loan program. MR. NOBLE said that with all due

respect to MS. COLHOUN, considering time limitations, there was no way to cover the report at this time, and to basically give the complete report in November, when it could be dealt with more thoroughly.

### **OTHER BUSINESS**

MR. EVERTS noted that the EQC's 25th Anniversary Gala is scheduled for November 14th, and that PAUL SIHLER and ELLEN ENGSTEDT, former EQC staff members, are working on the invitations which will go out next week. Council members will receive a memo to update them on the status of that project. MR. NOBLE confirmed the next meeting as November 14-15, and adjourned at 11:45 a.m.